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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,547	02/14/2002	Doug Ulbrich	SON-05-1516CON	1112
35811	7590	10/07/2005	EXAMINER	
IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP 1650 MARKET ST SUITE 4900 PHILADELPHIA, PA 19103			PATTERSON, MARC A	
		ART UNIT	PAPER NUMBER	
			1772	

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/075,547	ULBRICH ET AL.
	Examiner	Art Unit
	Marc A. Patterson	1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 13 July 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 2,5-11 and 22 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 2,5-11 and 22 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

**NEW REJECTIONS**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2, 5 – 11 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al (European Patent No. 0498249) in view of Rossini (U.S. Patent No. 5,658,420), Wallace (European Patent No. 0023788) and Karabedian (U.S. Patent No. 4,626,455).

With regard to Claims 5 - 6, 11 and 22, Anderson et al disclose a heat shrinkable web (film; therefore having opposite edges with a length defined therebetween; page 2, lines 1 - 13) on which labels for containers are printed (therefore printed labels for product containers positioned end to end; page 2, lines 1 – 13); during the printing of the web and its label - to - container feeding operation, automatic flying splicing of a roll of expiring film to a new roll of film takes place in order for the operation to be continuous (each web therefore provided on a separate roll; page 8, lines 4 - 9); the splicing therefore overlaps and adheres the ends of the webs to form one continuous web, and Anderson et al therefore disclose a heat shrinkable label comprising first and second elongated webs, and the use of a splice member adhering a portion of one web adjacent its leading end and another web adjacent its trailing end, extending transversely across a majority of the width defined by the webs; the webs have shrinkages in the machine direction and transverse direction (page 4, lines 17 - 21) and are therefore bi -

directionally shrinkable, such that each has a first shrinkage percentage in the longitudinal direction, which is the machine direction, and the lateral direction, which is the transverse direction. Anderson et al fail to disclose an elongated splice member which is a heat shrinkable tape and is clear and has an adhesive on its surface and is bi - directionally heat - shrinkable such that it has a third shrinkage percentage in the lateral direction and a fourth shrinkage percentage in the lateral direction, and the first shrinkage percentage is equal to the third shrinkage percentage and the second shrinkage percentage is equal to the fourth shrinkage percentage.

Rossini teaches that it is well known in the art to use an adhesive tape as the splice member to form a flying splice between two webs (column 1, lines 34 - 48) for the purpose of joining the webs together quickly and accurately (column 3, lines 35 - 47). Therefore, one of ordinary skill in the art would have recognized the advantage of providing for the adhesive tape of Rossini in Anderson et al, which comprises a splice member, depending on the desired speed and accuracy of making the end product as taught by Rossini.

Wallace teaches the use of a heat - shrinkable adhesive tape (patch; second paragraph, page 5) to adhere overlapping web edges (second paragraph, page 5) for the purpose of obtaining good adhesion for web edges which are heat shrinkable (heat - recoverable; first paragraph, page 1); the tape, and therefore the web, changes dimension in the longitudinal and / or transverse direction (first paragraph; page 6). Therefore, one of ordinary skill in the art would have recognized the advantage of providing for the heat - shrinkable adhesive tape of Wallace in Anderson et al, which comprises heat - shrinkable web edges, depending on the adhesion desired for the end product as taught by Wallace.

Karabedian teaches a label having a multilayer structure (column 5, lines 31 - 33) for a container (column 5, line 22) in which the shrinkages of the layers are selected to be equal for the purpose of obtaining a label that does not wrinkle (if the amount of shrinkage of the skin does not match (identically) the substrate, wrinkling will develop; column 5, lines 35 - 38). One of ordinary skill in the art would therefore recognize the advantage of providing for the equal shrinkages of Karabedian in Anderson et al, which is a label having a multilayer structure comprising a shrinkable web and a splice member, depending on the desired prevention of wrinkling of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a splice tape which is an adhesive tape, therefore having an adhesive on its surface, in Anderson et al in order to join webs together quickly and accurately as taught by Rossini and to have provided for a heat - shrinkable adhesive tape in Anderson et al in order to adhere web edges which are heat shrinkable as taught by Wallace and to have provided for equal shrinkage of the web and splice tape, therefore an equal value of the first shrinkage and third shrinkage and second shrinkage and fourth shrinkage, in order to obtain a label that does not wrinkle as taught by Karabedian. The shrinkages therefore match such that the continuous web shrinks along with the adhered splice tape without causing substantial distortion substantially limiting printing distortion. However, the claimed aspects of the shrinkages matching such that the continuous web shrinks along with the adhered splice tape without causing substantial distortion and substantially limiting printing distortion are directed to functional uses of the invention, rather than its structure, and are therefore given little patentable weight. With regard to Claim 2, and the claimed aspect of the splice being clear, Rossini teaches

a tape that is a pressure sensitive adhesive (column 1, lines 10 - 13); the claimed aspect of the adhesive being transparent, therefore clear, therefore reads on Rossini.

With regard to Claims 7 – 8 and 10, the web which is disclosed by Anderson et al is a laminate of two plies of polypropylene film (page 7, lines 35 - 38) of Anderson et al.

With regard to Claim 9, the tape which is taught by Wallace comprises polyethylene (second paragraph, page 14 of Wallace).

#### ANSWERS TO APPLICANT'S ARGUMENTS

3. Applicant's arguments regarding the 35 U.S.C. 103(a) rejection of Claims 2, 5 – 11 and 22 as being unpatentable over Anderson et al (European Patent No. 0498249) in view of Rossini (U.S. Patent No. 5,658,420), Wallace (European Patent No. 0023788) and Karabedian (U.S. Patent No. 4,626,455), of record in the previous Action, have been carefully considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 5 of the remarks dated July 13, 2005, that Karabedian does not teach the use of a separate splice material to secure one label section to a second label section, or the use of an adhesive; Karabedian, Applicant argues, only teaches that it is desirable that there be no wrinkles in a heat shrinkable label that is formed from two co- extruded material, and to take into consideration the relative shrinkage rates in the horizontal and vertical directions.

However, horizontal and vertical directions are not discussed by Karabedian; as stated above, Karabedian teaches a multilayer structure for use in labeling in which the shrinkages of all of the layers are selected to be equal, for the purpose of obtaining a label that does not wrinkle; because Anderson et al discloses a label having two plies of polypropylene as stated

above, and a splice overlapping the label, Anderson et al also discloses a structure having multiple layers, including the splice, and it would be obvious in view of Karabedian to select equal that shrinkages which are equal for all of the layers for the purpose of obtaining a structure in which none of the layers wrinkle.

Applicant also argues, on page 6, on that a splice is not disclosed by the prior art which is inside of a label.

However, a splice which is inside of a label is not claimed.

Applicant also argues on page 6 that Anderson et al do not disclose the construction of a splice member which is applied in the disclosed flying splice mechanism, and that although Rossini teaches the use of a tape in a flying splice mechanism, there is nothing to suggest that Rossini could be applied to Anderson et al.

However, as stated above, Rossini teaches that it is well known in the art to use an adhesive tape as the splice member to form a flying splice between two webs (column 1, lines 34 – 48) for the purpose of joining the webs together quickly and accurately; because Anderson et al and Rossini teach flying splice mechanisms, one of ordinary skill in the art would have recognized the advantage of providing for the adhesive tape of Rossini as the splice member in Anderson et al.

Applicant also argues on page 7 that Wallace teaches a patch structure that should not be shrinkable.

However, Wallace clearly teaches a patch structure the optional use of a patch that is heat shrinkable or is not heat shrinkable (second paragraph, page 5) and therefore teaches a patch that is heat shrinkable.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Marc Patterson 10/2/05*

Marc A. Patterson, PhD.  
Examiner  
Art Unit 1772